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9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-1014**

12 **DENISE LOUISE BORGES,**  
13 **AKA DENISE LOUISE ANDERSON**  
14 **27561 Brookside Lane**  
**San Juan Capistrano, CA 92675**

**ACCUSATION**

15 **Registered Nurse License No. 724155**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
22 Department of Consumer Affairs.

23 2. On or about April 3, 2008, the Board of Registered Nursing issued Registered Nurse  
24 License Number 724155 to Denise Louise Borges, aka Denise Louise Anderson (Respondent).  
25 The Registered Nurse License was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on November 30, 2011, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

7. Section 2761, subdivision (a) of the Code states in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct . . . ."

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 "..."

5 9. Section 2770.11 of the Code states:

6 "(a) Each registered nurse who requests participation in a diversion program shall agree to  
7 cooperate with the rehabilitation program designed by the committee and approved by the  
8 program manager. Any failure to comply with the provisions of rehabilitation program may  
9 result in termination of the registered nurse's participation in a program. The name and license  
10 number of a registered nurse who is terminated for any reason, other than successful completion,  
11 shall be reported to the board's enforcement program.

12 "(b) If the program manager determines that a registered nurse, who is denied admission  
13 into the program or terminated from the program, presents a threat to the public or his or her own  
14 health and safety, the program manager shall report the name and license number, along with a  
15 copy of all diversion records for that registered nurse, to the board's enforcement program. The  
16 board may use any of the records it receives under this subdivision in any disciplinary  
17 proceeding."

#### 18 DRUGS

19 10. Vicodin is a Schedule II controlled substance under Health and Safety Code Section  
20 11055, subdivision (b)(1)(I) and is a dangerous drug under 4022 of the Code. Vicodin is a trade  
21 name for hydrocodone or dihydrocodeine with the non-narcotic substance acetaminophen.

22 11. Oxycontin is a Schedule II controlled substance under Health and Safety Code  
23 Section 11055(b)(1)(M) and (c)(6) and is a dangerous drug under Section 4022 of the Code.  
24 Oxycontin is a trade name for oxycodone and hydrochloride salt.

#### 25 COSTS

26 12. Section 125.3 of the Code provides that Respondent can be ordered to pay a sum not  
27 to exceed the reasonable costs of the investigation and enforcement of the case.

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**FACTS**

13. Respondent was working as a registered nurse at Fountain Valley Regional Hospital and Medical Center in Fountain Valley, California. On or about February 19, 2010, a hospital supervisor received a complaint from a member of the staff that Respondent's breath smelled like alcohol. As a result, the hospital supervisor had Respondent report to the Human Resources Department of the hospital for a drug test. Although Respondent tested negative for alcohol, she tested positive for opiates and Oxycontin. Respondent then self-reported to a local rehabilitation program for substance abuse treatment.

14. In July 2008, Respondent was prescribed Vicodin to help her with migraine headaches. Respondent admitted that she abused Vicodin for over a year by taking more than the amount that she was prescribed because she thought it gave her enough energy to get through the tasks of her day, including her responsibilities for caring for her children.

15. On or about February 19, 2010, Respondent admitted that she fell asleep at a meeting at work because of her consumption of Vicodin. Respondent admitted that she experienced withdrawals in the afternoon while at work, that she had headaches, and had trouble remembering things while working when she experienced withdrawals.

16. On or about September 30, 2010, Respondent admitted to a Board investigator that she obtained Oxycontin from a friend, and self-administered it whenever she felt the prescribed dose of Vicodin was not enough for her. Respondent admitted that she did not want to get an Oxycontin prescription from her doctor because she thought this doctor would think she was addicted. Respondent admitted that she was taking roughly 10-20 tablets of Vicodin and Oxycontin combined each day.

17. On March 22, 2010, the Board accepted Respondent into its Diversion Program. On April 19, 2010, Respondent was terminated from the program for non-compliance because she wanted to go back to work, and did not want to finish the Diversion Program. Respondent was determined to be a threat to the public or her own health and safety at the time of her termination from the Diversion Program.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct – Obtain, Possess and/or  
3 Self-Administer Controlled Substances)

4 18. Respondent is subject to disciplinary action under Section 2762, subdivision (a) of the  
5 Code in that Respondent obtained and self-administered Vicodin and Oxycontin, controlled  
6 substances, as set forth in paragraphs 13 through 16, which are incorporated here by this  
7 reference.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Unprofessional Conduct - Use of a Controlled Substance  
10 to an Extent Dangerous to Herself and the Public)

11 19. Respondent is subject to disciplinary action for unprofessional conduct under Section  
12 2762, subdivision (b) of the Code in that Respondent used controlled substances or dangerous  
13 drugs in a manner dangerous or injurious to herself or to the public or to the extent it impaired her  
14 ability to safely practice as a registered nurse, as set forth in paragraphs 13 to 17, which are  
15 incorporated here by this reference.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct – Failure to Successfully  
18 Complete the Board's Diversion Program)

19 20. Respondent is subject to disciplinary action under Section 2761, subdivision (a) of the  
20 Code in that Respondent entered and then failed to successfully complete the Board's Diversion  
21 Program, as set forth in paragraph 17, which is incorporated here by this reference.

22 **ADDITIONAL DISCIPLINARY CONSIDERATIONS**

23 21. To determine the degree of discipline, if any, to be imposed on Respondent,  
24 Complainant alleges that Respondent was convicted of driving under the influence of alcohol  
25 twice before she received her license as a registered nurse, once in June 1986 and again in June  
26 1992.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 724155 issued to Denise  
5 Louise Borges, aka Denise Louise Anderson;

6 2. Ordering Denise Louise Borges to pay the Board the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Business and Professions Code Section  
8 125.3; and

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED:

11 June 29, 2011

12 Louise R. Bailey

13 LOUISE R. BAILEY, M.ED., RN  
14 Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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